

Steven T. Lowe, SBN 122208  
Aleksandra Hilvert, SBN 258463  
**LOWE & ASSOCIATES**, a Professional Corporation  
8383 Wilshire Blvd. Suite 1038  
Beverly Hills, California 90211  
Telephone: (310) 477-5811

Attorneys for Plaintiffs,  
Arthur Lee Alfred II and  
Ezequiel Martinez Jr.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**ARTHUR LEE ALFRED, II**, an  
individual; AND **EZEQUIEL  
MARTINEZ, JR.**, an individual,

Plaintiffs,  
v.

**THE WALT DISNEY COMPANY**, a  
Delaware corporation; **BRIGHAM  
TAYLOR**, an individual; **DISNEY  
ENTERPRISES INC.**, a Delaware  
Corporation; **WALT DISNEY  
PICTURES**, a California company;  
**WALT DISNEY MOTION  
PICTURES GROUP, INC.**, a California  
corporation; **THE DISNEY STORE  
INC.**, a California corporation; **WALT  
DISNEY PARKS AND RESORTS**, a  
Florida company; **DISNEY+** a California  
company; **DISNEY CONSUMER  
PRODUCTIONS, INC.**, a California  
Corporation; **DISNEY CONSUMER  
PRODUCTIONS AND  
INTERACTIVE MEDIA, INC.**, a  
California corporation; **DISNEY BOOK  
GROUP, LLC.**, a Delaware Limited

CASE NO. 2:18-CV-08074-CBM-AS

Assigned to Hon. Consuelo Marshall

**PLAINTIFFS' *FIRST AMENDED*  
COMPLAINT FOR DAMAGES FOR:**

1. COPYRIGHT  
INFRINGEMENT (FILM &  
DERIVATIVE WORKS)

**DEMAND FOR JURY TRIAL**

Complaint Filed: Nov. 14, 2017  
(Colorado District Court 1:17-CV-  
02729)  
Trial: TBD

1 Liability Company; **DISNEY**  
2 **INTERACTIVE STUDIOS, INC.**, a  
3 California corporation; **WALT DISNEY**  
4 **ATTRACTIONS TECHNOLOGY**  
5 **LLC**, a Delaware Limited Liability  
6 Company; **WALT DISNEY**  
7 **THEATRICAL RECORDINGS**, a  
8 California Corporation; **DISNEY**  
9 **MEDIA DISTRIBUTION**, a California  
10 company; **BUENA VISTA PICTURES**  
11 **DISTRIBUTION, INC.**, a California  
12 Company; **AMERICAN**  
13 **BROADCASTING COMPANY**, a New  
14 York Company; **BUENA VISTA**  
15 **MEDIA**, a California corporation;  
16 **BUENA VISTA HOME**  
17 **ENTERTAINMENT, INC.** a California  
18 Company; **BUENA VISTA**  
19 **THEATRICAL GROUP LTD.**, a New  
20 York Corporation; **BUENA VISTA**  
21 **CATALOGUE CO.**, a California  
22 Company; **BUENA VISTA NON-**  
23 **THEATRICAL, INC.**, a California  
24 Corporation; **BUENA VISTA**  
25 **PRODUCTIONS**, a California  
26 corporation; **BUENA VISTA**  
27 **THEATERS, INC.**, a California  
28 corporation; **BUENA VISTA VIDEO**  
**ON DEMAND**, a California corporation;  
**BUENA VISTA BOOKS, INC.**, a  
California corporation; and DOES 1-50,  
inclusive,

Defendants.

1 PLAINTIFFS Arthur Lee Alfred, II, and Ezequiel Martinez (“Plaintiffs”)  
2 hereby allege as follows:

3 **PARTIES**

4 1. At all times mentioned herein, Plaintiff ARTHUR LEE ALFRED,  
5 II (“Alfred”) is an individual residing in the State of California.

6 2. At all times mentioned herein, Plaintiff EZEQUIEL MARTINEZ  
7 JR. (“Martinez”) is an individual residing in the State of California.

8 3. Alfred and Martinez shall be collectively referred to as “Plaintiffs.”

9 4. Upon information and belief, Defendant THE WALT DISNEY  
10 COMPANY (“Defendant TWDC”) is incorporated in Delaware, with its  
11 principal place of business in Burbank, California.

12 5. Upon information and belief, Defendant DISNEY ENTERPRISES,  
13 INC. (“Defendant DEI”) is incorporated in Delaware, with its principal place of  
14 business in Burbank, California.

15 6. Upon information and belief, Defendant WALT DISNEY  
16 PICTURES (“Defendant Disney Pictures”) is incorporated in California, with its  
17 principal place of business in Burbank, California. Defendant Disney Studios is  
18 a division of Defendant TWDC and is a film production studio arm of Walt  
19 Disney Studios.

20 7. Upon information and belief, Defendant WALT DISNEY  
21 MOTION PICTURES GROUP, INC. (“Defendant Disney Motion Pictures”) is  
22 incorporated in California, with its principal place of business in Burbank,  
23 California.

24 8. Upon information and belief, Defendant THE DISNEY STORE  
25 INC. (“Defendant Disney Store”) is incorporated in California, with its principal  
26 place of business in Burbank, California.

1           9.     Upon information and belief, Defendant DISNEY CONSUMER  
2 PRODUCTIONS, INC. (“Disney Consumer”) is a California corporation with  
3 its principal place of business in Burbank, California.

4           10.    Upon information and belief, Defendant DISNEY CONSUMER  
5 PRODUCTIONS AND INTERACTIVE MEDIA, INC., (“Disney Media”) is a  
6 California corporation with its principal place of business in Burbank,  
7 California.

8           11.    Upon information and belief, Defendant DISNEY BOOK GROUP,  
9 LLC., (“Disney Book”) is a Delaware Limited Liability Company.

10          12.    Upon information and belief, Defendant DISNEY INTERACTIVE  
11 STUDIOS, INC. (“Disney Interactive”) is a California corporation with its  
12 principal place of business in Burbank, California.

13          13.    Upon information and belief, Defendant WALT DISNEY  
14 ATTRACTIONS TECHNOLOGY LLC (“Disney Attractions”) is a Delaware  
15 Limited Liability Company.

16          14.    Upon information and belief, Defendant WALT DISNEY  
17 THEATRICAL RECORDINGS (“Disney Recordings”) is a California  
18 Corporation with its principal place of business in Burbank, California.

19          15.    Upon information and belief, Defendant WALT DISNEY PARKS  
20 AND RESORTS U.S., Inc. (“Defendant Disney Parks”) is incorporated in  
21 Florida, with its principal place of business in Orlando, Florida.

22          16.    Upon information and belief, Defendant DISNEY+ (“Defendant  
23 Disney+”) is owned and operated by DISNEY MEDIA DISTRIBUTION.

24          17.    Defendant DISNEY MEDIA DISTRIBUTION (“Defendant Disney  
25 Distribution”) is incorporated in California, with its principal place of business  
26 in Burbank, California.

27          18.    Upon information and belief, Defendant BUENA VISTA  
28 PICTURES DISTRIBUTION (“Defendant Buena Vista”) is owned and operated

1 by Defendant AMERICAN BROADCASTING COMPANY. Defendant Buena  
 2 Vista, among others, is a distributor of the Pirates of the Caribbean franchise of  
 3 films.

4 19. Upon information and belief, Defendant BUENA VISTA HOME  
 5 ENTERTAINMENT (“Defendant Buena Vista Ent.”) is incorporated in  
 6 California, with its principal place of business in Burbank, California.  
 7 Defendant Buena Vista Ent., among others, is a distributor of the Pirates of the  
 8 Caribbean franchise of films.

9 20. Upon information and belief, Defendant BUENA VISTA MEDIA  
 10 (“Defendant Buena Vista Media”) is incorporated in California, with its  
 11 principal place of business in Burbank, California.

12 21. Upon information and belief, Defendant BUENA VISTA  
 13 PRODUCTIONS (“Defendant Buena Vista Productions”) is incorporated in  
 14 California, with its principal place of business in Burbank, California.

15 22. Upon information and belief, Defendant BUENA VISTA  
 16 THEATERS, INC (“Defendant Buena Vista Theaters”) is incorporated in  
 17 California, with its principal place of business in Burbank, California.

18 23. Upon information and belief, Defendant BUENA VISTA  
 19 THEATRICAL GROUP LTD. (“Defendant Buena Vista Theatrical”) is  
 20 incorporated in New York, with its principal place of business in New York,  
 21 New York.

22 24. Upon information and belief, Defendant BUENA VISTA VIDEO  
 23 ON DEMAND (“Defendant Buena Vista VOD”) is incorporated in California,  
 24 with its principal place of business in Burbank, California.

25 25. Upon information and belief, Defendant BUENA VISTA BOOKS  
 26 (“Defendant Buena Vista Books”) is incorporated in California, with its  
 27 principal place of business in Burbank, California.  
 28

26. Upon information and belief, Defendant BUENA VISTA NON THEATRICAL, INC. (“Defendant Buena Vista Non-Theatrical”) is incorporated in California, with its principal place of business in Burbank, California.

27. Upon information and belief, Defendant AMERICAN BROADCASTING COMPANY (“Defendant ABC”) is incorporated in New York, with its principal place of business in New York, New York. Defendant ABC, among others, is a distributor of the *Pirates of the Caribbean* franchise of films.

28. The foregoing entities shall hereinafter be collectively referred to as “Disney”.

29. For the purposes of this pleading, the Pirates of the Caribbean franchise currently consists of the original film “Pirates of the Caribbean: Curse of the Black Pearl” (the “Film”) released to the public on June 28, 2003; “Pirates of the Caribbean: Dead Man’s Chest” (“POTC 2”) released to the public on June 24, 2006; “Pirates of the Caribbean: At World’s End” (“POTC 3”) released to the public on May 25, 2007; “Pirates of the Caribbean: On Stranger Tides” (“POTC 4”) released to the public on May 7, 2011; “Pirates of the Caribbean: Dead Men Tell No Tales” (“POTC 5”) released to the public May 26, 2017 and any other films not yet released but which are ultimately released and are derivative of the Film. The Film, POTC 2, POTC 3, POTC 4, and POTC 5 shall be collectively herein referred to as the “Film Franchise.”

30. At all times mentioned herein, Disney and Taylor shall be jointly referred to as “Defendants”.

31. Plaintiff is unaware of the true names and capacities of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, sues such Defendants under such fictitious names. Plaintiff is informed and believes and on that basis alleges that such fictitiously named Defendants are responsible in some manner for the occurrences herein alleged, and that

1 Plaintiff's damages as herein alleged were proximately caused by the conduct of  
 2 said Defendants. Plaintiff will seek to amend the complaint when the names and  
 3 capacities of such fictitiously named Defendants are ascertained. As alleged  
 4 herein, "Defendants" shall mean all named Defendants and all fictitiously named  
 5 Defendants.

6 32. Plaintiffs are informed and believe and on that basis alleges that  
 7 Defendants at all times relative to this action, were agents, servants, partners,  
 8 joint venturers, and employees of each of the other Defendants and in doing the  
 9 acts alleged herein were acting with the knowledge and consent of each of the  
 10 other Defendants in this action. Alternatively, at all times mentioned herein,  
 11 each of the Defendants conspired with each other to commit the wrongful acts  
 12 complained of herein. Although not all of the Defendants committed all of the  
 13 acts of the conspiracy or were members of the conspiracy at all times during its  
 14 existence, each Defendant knowingly performed one or more acts in direct  
 15 furtherance of the objectives of the conspiracy. Therefore, each Defendant is  
 16 liable for the acts of all of the other conspirators.

#### 17 **JURISDICTION AND VENUE**

18 33. This action arises under the Copyright Laws of the United States  
 19 (Title 17, U.S.C. § 101 *et seq.*) and the common law of the State of California.

20 34. This court has exclusive jurisdiction over this action under 28  
 21 U.S.C. §§ 1331 and 1338 in that this action involves claims arising under the  
 22 Copyright Laws of the United States. To the extent that this action is based on  
 23 related state claims, the Court has supplemental jurisdiction thereto under 28  
 24 U.S.C. § 1367.

25 35. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and  
 26 1400 in that Defendants transact business in the county of Los Angeles,  
 27 California.  
 28



**PRELIMINARY STATEMENT**

36. Every young screenwriter dreams of writing that commercial screenplay that can catch the attention of a major film studio. The opportunity to have a major film studio, such as the defendants to this case, take a screenwriter's original spec screenplay and turn the work into a major motion picture is the ultimate dream.

37. The screenwriter Plaintiffs almost realized that dream, but this dream quickly turned into a nightmare, when their original screenplay entitled "Pirates of the Caribbean" was intentionally copied and commercially exploited by Defendants, with no credit or compensation to either of the Plaintiffs.

38. Plaintiff Alfred is a 1998 graduate of California State University in San Bernardino. Coming from a small African American family, he was the first in his family to graduate college; in fact, Plaintiff Alfred graded at the top of his class with a degree in Communications and Television. Also, he, along with Plaintiff Martinez, were the first to produce independent films at the university. After graduating, Plaintiff Alfred worked as an intern at MTV Films while simultaneously perfecting his craft of screenwriting. Thereafter, beginning in 2001, Plaintiff Alfred began working as a producer in the entertainment industry whereby he produced a number of music videos, commercials, infomercials and corporate videos. In 2010, Plaintiff Alfred began working for famous award winning actor/producer/director Forest Whitaker as a Creative Executive. He and Mr. Whitaker worked together for three (3) years. As Whitaker's Creative Manager, Plaintiff Lee helped develop Juntobox Films, a social media platform for independent filmmakers to create and collaborate on independent films.

39. Plaintiff Martinez attended California State University in San Bernardino where he studied Film and Television. Upon information and belief, he produced the first student feature film in the history of any California State University student. While in school, he was awarded top film student in



1 Southern California by his professors. Thereafter, he joined Paramount Pictures  
 2 as an intern working on the film VARSITY BLUES. Plaintiff Martinez has  
 3 made a living as a screenwriter for over twenty-two (22) years, having worked  
 4 for several years with Madonna's production company Maverick (from 2003 to  
 5 2006). At Maverick, he worked with every major studio setting up film and  
 6 television projects in the entertainment industry.

7 **PLAINTIFFS SOLD DISNEY THEIR ORIGINAL SCREENPLAY**  
 8 **CALLED "RED HOOD" BEFORE SUBMITTING THE PIRATES**  
 9 **SCREENPLAY**

10 40. In or about early 1999, Plaintiffs jointly wrote an original "spec"  
 11 screenplay entitled RED HOOD ("*Red Hood*"). *Red Hood* was an updated  
 12 version of the folklore tale of *Little Red Riding Hood*. Plaintiffs were able to use  
 13 their collective experiences as minorities growing up in Los Angeles in the  
 14 1980s and 1990s to infuse their writing with an edgy, commercial appealability  
 15 to a diverse audience. To date, Plaintiffs have jointly written three (3)  
 16 screenplays together.

17 41. Plaintiffs, through their producer, Tova Laiter ("Laiter") submitted  
 18 "*Red Hood*" to various producers and production companies, including Disney,  
 19 in or about 1999.

20 42. Defendants, including Taylor, favorably received the *Red Hood*  
 21 screenplay and elected to option *Red Hood*.

22 43. Thereafter, Taylor/ Disney, made an offer to Plaintiffs to work with  
 23 Taylor (and other Disney executives) to develop *Red Hood*. In or about this time,  
 24 Disney paid for Plaintiffs to join the Writers Guild of America, as was required  
 25 for all screenwriters who work with Disney.

26 44. In or about fall of 1999, Defendants, specifically, Taylor, who was  
 27 at that time employed by Disney as a creative executive, invited Plaintiffs to  
 28 work with himself, Josh Harmon ("Harmon"), Michael Haynes ("Haynes") and

1 others on the “development” of the *Red Hood* Project. Upon information and  
 2 belief, Harmon and Haynes worked in the same department at Disney (along  
 3 with Taylor); upon information and belief, that department was the motion  
 4 pictures group department.

5 45. Thereafter, beginning in approximately the fall of 1999, Plaintiffs  
 6 began attending multiple meetings in person at the Disney lot in Burbank,  
 7 California (and telephonically) with Taylor, Harmon and Haynes, for the  
 8 purpose of developing *Red Hood*.

9 46. In or about January of 2000, Plaintiffs optioned *Red Hood* to  
 10 Disney for \$15,000. *Red Hood* was never produced by Disney.

11 47. For approximately one year, from October 1999 through October  
 12 2000, Plaintiffs working with Taylor, along with other members of Defendant  
 13 Disney’s creative team, on *Red Hood*, primarily at the Disney lot in Burbank,  
 14 California.

15 **PLAINTIFFS WRITE AN ORIGINAL SCREENPLAY ENTITLED**  
 16 **“PIRATES OF THE CARIBBEAN”**

17 48. In or about March of 2000, Plaintiffs developed an idea for an  
 18 original spec screenplay originally entitled *Pirates of the Spanish Main* and  
 19 began writing the same.

20 49. On or about July 19, 2000, Plaintiffs finalized the first draft of *The*  
 21 *Pirates of the Spanish Main* (which they later retitled *Pirates of the Caribbean*  
 22 to make it more marketable to Disney) (the “Screenplay”). Given their existing  
 23 relationship with Disney, Plaintiffs retitled the Screenplay and added some  
 24 relatively minimal characteristics from the Disney theme park ride of the same  
 25 name (the “Ride”) for the purposes of submitting the Screenplay to Disney.

26 50. Plaintiffs registered the Screenplay with the United States  
 27 Copyright Office (a true and accurate copy of a printout from the US Copyright  
 28 Office database is attached hereto as **Exhibit 1**) registration no. Pau-003855850.

1 Plaintiffs have requested an official copy of the registration itself from the US  
2 Copyright Office (which has been delayed due to Covid-19) and will seek to  
3 substitute it as Exhibit 1 once received.

4 51. Plaintiffs are the owners of all copyright rights in and to the original  
5 creative work, the Screenplay in all of its original, unique and protected  
6 permutations, and has never assigned, licensed or otherwise transferred its  
7 copyright protection to any of the Defendants, nor to any other third party.

8 52. On or about August 2, 2000, Laiter had a conversation with Taylor  
9 by telephone wherein she described the Screenplay to Taylor. During that  
10 conference, Taylor stated that Disney wanted to make a film related to the Ride  
11 and were discussing the foregoing internally.

12 53. At that time, Taylor solicited a submission of Plaintiffs' Screenplay.  
13 Taylor sounded highly interested during the call – which is to be expected since  
14 Taylor already knew that Plaintiffs were capable of writing marketable  
15 screenplays.

16 54. On or about August 7, 2000, Laiter had a second call with Taylor  
17 advising him that she would send the Screenplay to Taylor on August 9, 2000.

18 55. Upon Taylor's request, Laiter submitted the Screenplay to Taylor  
19 on August 9, 2000. A true and accurate copy of Laiter's cover letter and the  
20 Screenplay itself is attached hereto as **Exhibit 2**.

21 56. At the end of the submission letter, Laiter included the following:  
22 "Please let me know as soon as possible as I have a draft that does not have the  
23 Disney song or the Ride references that I plan to take to other studios." In other  
24 words, the Screenplay stands on its own two feet as a self-contained original  
25 creative work, without any dependence upon the Ride. The Ride references  
26 were ancillary, and extraneous added solely to make the Screenplay more  
27 marketable to Disney.  
28

1           57.    Thereafter, Plaintiffs hand delivered a sizzle reel about their project  
2 (i.e. a one-minute trailer) and original artwork in order to fully present their  
3 concepts to Disney. The Screenplay, a sizzle reel and original artwork is  
4 collectively referred to as the “Materials”. A true and accurate copy of the  
5 artwork is attached hereto as **Exhibit 3**; and the sizzle is being lodged herewith  
6 as **Exhibit 4**.

7           58.    Plaintiffs waited to hear from Taylor as to whether Defendants  
8 would be interested in producing the Screenplay. Much to Plaintiffs’ dismay,  
9 they heard nothing from Taylor for a few months. This was especially  
10 surprising since Laiter’s letter included a request for Taylor’s prompt response.

11           59.    Approximately two (2) months later, in early October 2000,  
12 Plaintiffs attended a meeting with Taylor and Harmon at the Disney lot to work  
13 on *Red Hood*. Plaintiffs arrived early for the meeting and were brought into  
14 Taylor’s office to wait for him.

15           60.    It was at that time that they specifically witnessed their Materials -  
16 the Screenplay and artwork on a coffee table in Taylor’s office.

17           61.    Pleasantly surprised, Plaintiffs mentioned the Screenplay to  
18 Harmon and asked whether they would be discussing the Screenplay. Almost  
19 immediately thereafter, Plaintiffs were quickly ushered out of Taylor’s office.

20           62.    When the *Red Hood* meeting officially commenced in Taylor’s  
21 office a short time later, all Materials including the Screenplay were removed  
22 and the meeting ended abruptly. Plaintiffs’ invitation to the Disney lot was  
23 unceremoniously revoked immediately thereafter.

24           63.    Thereafter, Plaintiffs were not invited back to meet with either  
25 Taylor or other executives at Defendant Disney regarding *Red Hood* or any other  
26 project.

27           64.    Shortly thereafter, Laiter was informed by Taylor via telephone that  
28 the Defendants were going to pass on the project due to the presence of children

1 in the Screenplay. This seemed to be a strange reason to pass given children are  
2 in most of Disney's films and television shows.

3 **PLAINTIFF'S ORIGINAL SCREENPLAY WAS NOT RETURNED**  
4 **UNTIL THE FILM WAS IN PRODUCTION**

5 65. It is custom and practice in the film industry for original works to  
6 be returned immediately to the agent or individual who submitted the work when  
7 a studio passes on a project. This is an industry accepted standard designed to  
8 prevent the "unintentional" copying of original spec screenplays.

9 66. However, at the time that Defendants passed on Plaintiffs' original  
10 spec screenplay, it was not returned to Laiter.

11 67. Instead, just over two years later, on November 26<sup>th</sup>, 2002, the  
12 Screenplay was returned to Plaintiff Martinez, via U.S.P.S. Priority Mail, with  
13 the return address of Taylor ("B. Taylor") at Disney. A true and accurate copy  
14 of the return envelope is attached hereto as **Exhibit 5**.

15 68. Upon information and belief, in or about September of 2002,  
16 Defendants already drafted the final version of the "Shooting Script" (which is  
17 the final version of a screenplay used in filming) and production began on the  
18 Film on October 9, 2002. Therefore, by the time the original spec screenplay  
19 was returned to Plaintiff Martinez, Defendants were already in production on the  
20 Film which incorporated significant, striking and substantial elements from  
21 Plaintiffs' Screenplay. Defendants had over two (2) years to pour over the  
22 contents of the Screenplay, and pirate it as they so desired.

23 69. Upon information and belief, in or about May of 2001, Taylor was  
24 promoted from Director of Production to Vice President of Production at  
25 Disney.

26 **DISNEY RELEASES PIRATES OF THE CARIBBEAN IN 2003**

27 70. The first "*Pirates of the Caribbean*" film, "*Pirates of the*  
28 *Caribbean: The Curse of the Black Pearl*" (the "Film") premiered just over

1 seven months later, on June 28, 2003. This was the first installment in what  
 2 turned out to be an incredibly successful franchise for Disney.

3 71. Thereafter, on June 24, 2006, Defendants released *Pirates of the*  
 4 *Caribbean: Dead Man's Chest* ("POTC 2") in theaters nationwide. POTC 2 is a  
 5 direct sequel to the Film and a derivative work thereof. POTC 2 utilizes the  
 6 same basic core expression of the Screenplay as well containing other  
 7 similarities according to proof. POTC 2 is therefore a separate infringement of  
 8 Plaintiff's Screenplay.

9 72. On May 25, 2007, Defendants released *Pirates of the Caribbean: At*  
 10 *World's End* ("POTC 3") in theaters nationwide. POTC 3 is a direct sequel to  
 11 the Film and a derivative work thereof. POTC 3 utilizes the same basic core  
 12 expression of the Screenplay, as well containing other similarities according to  
 13 proof. POTC 3 is therefore a separate infringement of Plaintiff's Screenplay.

14 73. On May 7, 2011, Defendants released *Pirates of the Caribbean: On*  
 15 *Stranger Tides* ("POTC 4") in theaters nationwide. POTC 4 is a direct sequel to  
 16 the Film and a derivative work thereof. POTC 4 utilizes the same basic core  
 17 expression of the Screenplay as well containing other similarities according to  
 18 proof. POTC 4 is therefore a separate infringement of Plaintiff's Screenplay.

19 74. On May 26, 2017, Defendants released *Pirates of the Caribbean:*  
 20 *Dead Men Tell No Tales* ("POTC 5") in theaters nationwide. POTC 5 is a direct  
 21 sequel to the Film and a derivative work thereof. POTC 5 utilizes the same  
 22 basic core expression of the Screenplay as well containing other similarities  
 23 according to proof. POTC 5 is therefore a separate infringement of Plaintiff's  
 24 Screenplay.

25 75. Many of the similarities identified hereinbelow carried over  
 26 throughout the entire *Pirates of the Caribbean* franchise.

27 76. In 2020, Disney announced that a sixth installment in the Film  
 28 franchise is being planned for release.

1           77. Upon information and belief, the entire POTC Franchise has earned  
 2 Disney approximately \$40,000,000,000 which figure is growing by the second  
 3 given the vast amount of ticket sales, DVD/Blu-ray and downloaded content,  
 4 television and streamed content, merchandise, and books and video games.

5           78. Inexplicably, in or about 2011 or 2012, Taylor sent Plaintiff  
 6 Martinez several movie posters for the Film.

7                           **THE SCREENPLAY AND DISNEY’S FILM ARE**  
 8                           **SUBSTANTIALLY SIMILAR**

9           79. The Defendants intentionally, blatantly, and without authorization  
 10 copied the Plaintiffs’ Screenplay. Themes, settings, pace, plot, sequence of  
 11 events, mood, several characters, and dialogues from the Screenplay, some  
 12 practically verbatim, have been copied by the Defendants.

13           80. David Román, a Professor in the Department of English at the  
 14 University of Southern California, performed an in depth review and analysis of  
 15 the Screenplay and the Film and has determined that “there are enough  
 16 important similarities between the two works to merit a conclusion that one is  
 17 substantially similar to the other” and otherwise as set forth in his report attached  
 18 hereto. Report, pg. 1.

19           81. Professor Román holds a PhD and an Master of Arts in  
 20 Comparative Literature from the University of Wisconsin at Madison and is the  
 21 author of several award-winning books on twentieth and twenty-first century  
 22 American literature and culture. Before teaching at USC, Professor Román  
 23 taught at the University of Washington and Yale University. A true and  
 24 accurate copy of Professor Román’s expert report along with his *curriculum*  
 25 *vitae* is attached hereto as **Exhibit 6**.

26           82. Furthermore, Professor Román has acknowledged, verified and  
 27 confirmed each of the additional similarities, which were specifically identified  
 28



1 in Plaintiffs' Corrected Opening Brief filed with the Ninth Circuit Court of  
2 Appeals on October 8, 2019 as follows:

3 **Characters**

4 a. Main Character: Captain Davey Jones v. Captain Jack Sparrow

5 83. In the Screenplay, Davey Jones is described as a cocky, dashing  
6 young rogue who is a talented pirate. Similarly, in the Film, Jack Sparrow is a  
7 dashing young rogue character that is cocky, and a highly adept pirate (*Pirates*  
8 *of the Caribbean: The Curse of the Black Pearl*, at 00:08:52; 00:09:43;  
9 00:09:58). For example, in the Film, Jack Sparrow struts down the plank of a  
10 boardwalk to steal a ship, taunts British guards by saying "but you have heard of  
11 me" and flashes a coy smile at the guards while stealing their ship (*Pirates of the*  
12 *Caribbean: The Curse of the Black Pearl*, at 00:11:40; 00:18:20; 00:46:50).

13 84. Both Jack Sparrow and Davey Jones are also morally ambiguous,  
14 opportunistic and more concerned with rum than piracy. The character of  
15 Captain Jack Sparrow is introduced as a morally ambiguous, opportunistic pirate  
16 who is more concerned with his ship, the Black Pearl, rum and women, than  
17 being a pirate (*Pirates of the Caribbean: The Curse of the Black Pearl*, at  
18 00:10:29; 00:10:41; 00:12:10; 00:44:13; 01:36:00-01:39:00; 01:40:20-40). It is  
19 said of Jack Sparrow early in the Film: "That is without a doubt the worst pirate  
20 I have ever seen." (*Pirates of the Caribbean: The Curse of the Black Pearl*, at  
21 00:18:17-20; 00:46:40). Similarly, in the Screenplay the Rascal Scoundrels  
22 question Davey Jones' reputation saying: "the great Davey Jones, huh? That's  
23 some legend you've got there".

24 85. Davey Jones has a significant alcohol problem and is disillusioned  
25 with piracy. Similarly, Jack Sparrow has a significant alcohol problem and is  
26 also disillusioned with piracy (*Pirates of the Caribbean: The Curse of the Black*  
27 *Pearl*, at 00:53:58; 01:35:40-01:36:40; 01:41:01). Both Jones and Sparrow want  
28 to be known as great pirates, and are even encouraged at some point to be the

1 pirates they once were, or that legend claims them to be (*Pirates of the*  
 2 *Caribbean: The Curse of the Black Pearl*, at 00:18:20; 01:37:17); however, they  
 3 routinely fail at doing so. The Rascal Scoundrels are disappointed in Davey  
 4 Jones, who is always drunk, just as others are disappointed in Jack Sparrow who  
 5 is always drunk (*Pirates of the Caribbean: The Curse of the Black Pearl*, at  
 6 00:53:58; 01:35:40; 01:39:00).

7 b. Main Character: Captain Jack Nefarious v. Captain Barbossa

8 86. In the Screenplay, Captain Jack Nefarious is sinister, morally  
 9 ambiguous and opportunistic. Nefarious is a pirate that is more concerned with  
 10 finding treasure by any means necessary, including forcing Davey Jones  
 11 overboard while taking his ship. Similarly, in the Film, Captain Barbossa is seen  
 12 as sinister, morally ambiguous and opportunistic. For example, Barbossa betrays  
 13 Sparrow, maroons him on an island and hijacks the Black Pearl. (*Pirates of the*  
 14 *Caribbean: The Curse of the Black Pearl*, at 01:06:25). Nefarious/Barbossa were  
 15 originally Davey Jones'/Jack Sparrow's first mates and the pairs quickly become  
 16 arch-rivals in both the Screenplay and the Film (*Pirates of the Caribbean: The*  
 17 *Curse of the Black Pearl*, at 00:29:45; 00:53:12; 01:07:00; 01:52:25). In yet  
 18 another parallel, Nefarious and Barbossa both even shoot their own crew  
 19 member to further their own objectives (*Pirates of the Caribbean: The Curse of*  
 20 *the Black Pearl*, at 01:13:03). However, both characters somehow remain  
 21 infinitely likable and charming in their own way. *See generally*, Screenplay and  
 22 Film.

23 c) Supporting Characters: Rascal Scoundrels v. Jack Sparrow's  
 24 Crew

25 87. In the Screenplay, the Rascal Scoundrels are introduced as a ragtag  
 26 crew of orphans, fiercely loyal to Davey Jones. The Rascal Scoundrels are  
 27 immature, as demonstrated by their slapstick humor, yet they have violent  
 28 tendencies. Appellants' Screenplay depicts this crew of Rascal Scoundrels led by

1 a dissolute, charismatic pirate captain – Davey Jones. The Scoundrels, as  
 2 orphaned children, are fascinated with the pirate life.

3 88. In the Film, (as in the Screenplay,) Jack Sparrow’s crew is  
 4 introduced in a shipping port town: they are all simple-minded and childlike  
 5 (engaging in juvenile slapstick humor,) yet have violent and opportunistic  
 6 tendencies. (*Pirates of the Caribbean: The Curse of the Black Pearl*, at  
 7 00:50:43; 1:01:06). While Jack Sparrow’s crew may not be children, they are  
 8 very childlike in behavior. Furthermore, Pintel and Ragetti (albeit members of  
 9 Barbossa’s crew) provide comic relief throughout the Film, such as when they  
 10 dress up as women to confuse British soldiers, but are also shown as having  
 11 violent tendencies, similar to the Rascal Scoundrels in the Screenplay (*Pirates of*  
 12 *the Caribbean: The Curse of the Black Pearl*, at 00:30:51; 01:49:07-24).

13 89. In yet another purported coincidence, the character Stink in the  
 14 Screenplay is described as round and plump, with a funny pudgy face, gulping  
 15 down the last piece of whatever he was eating. Stink is vile and smelly. In the  
 16 Film, the character Gibbs, who is round and plump with a pudgy face, is known  
 17 to sleep with pigs and is also described as smelly (*Pirates of the Caribbean: The*  
 18 *Curse of the Black Pearl*, at 00:51:31; 00:52:11).

19 d) Supporting Character: Jane v. Elizabeth

20 90. In the Screenplay, the character of Jane, is a young woman who  
 21 lives in the shipping port town, and longs for adventure on the high seas.  
 22 Similarly, in the Film, Elizabeth is a young woman who lives in the shipping  
 23 port town and dreams of pirates and adventure on the high seas. (*Pirates of the*  
 24 *Caribbean: The Curse of the Black Pearl*, at 00:00:32-00:00:52; 00:01:55). In  
 25 fact, she says “I think it’d be rather exciting to meet a pirate” (*Pirates of the*  
 26 *Caribbean: The Curse of the Black Pearl*, at 00:01:25). Both Jane/Elizabeth rise  
 27 to the occasion to become fierce warriors and competent pirates, far from being  
 28 the stereotypical “damsel in distress.” (01:59:53). In addition, both

Jane/Elizabeth are sly and cunning, tricking Nefarious/Barbossa to prevent them from finding the final treasure (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:39:45).

#### **Pace and Sequence of Events**

91. The pace and sequence of events in the Screenplay is mirrored in the Film. The Screenplay is fun and fast-paced. The Film is also fun and fast-paced. The sizzle reel prepared by the Plaintiffs that accompanied their Screenplay envisions a fast paced, feature-length film. The following is a synopsis of the sequence of events of the Screenplay and the Film:

92. The Screenplay and Film both uniquely begin with a prologue set around ten years earlier that introduces the characters and love interests before the story begins (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:01:27). In the Screenplay, a privateer ship and a pirate ship exchange cannon fire while Jane and Davey Jones first appear. The opening of *The Curse of the Black Pearl* shows the aftermath of a privateer ship torn apart by cannon fire after being attacked by pirates where Elizabeth first meets Will (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:02:26-00:02:54). Thereafter, in the Screenplay, Davey Jones is engaged in a series of battles with his arch rival and former first mate, Captain Jack Nefarious.

93. Similarly, in the Film, Jack Sparrow and his crew are thereafter engaged in a series of battles with his former first mate, Captain Barbossa (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 01:06:10; 01:25:11-02:01:36).

94. In both the Screenplay and the Film, the Davey Jones and Jack Sparrow characters are formally introduced at gunpoint (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:17:40). The backstory to Captain Barbossa in the Film is that Barbossa initiated a mutiny where Jack Sparrow was kicked off the Black Pearl so that Barbossa could commandeer the ship to seek

1 treasure. (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 01:06:25).  
 2 Similarly, in the Screenplay, Captain Nefarious' rivalrous history with Davey  
 3 Jones begins when Nefarious betrays Davey Jones, taking his ship and treasure  
 4 map.

5 95. Both works continue when Nefarious/Barbossa attack the shipping  
 6 port town in the present looking for key items they need to get to the treasure  
 7 (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:29:08-00:37:10).  
 8 In both battles, the supernatural pirates are first revealed (*Pirates of the*  
 9 *Caribbean: The Curse of the Black Pearl*, at 00:37:10). During the course of the  
 10 battle, both Davey Jones/Jack Sparrow manage to escape unscathed (*Pirates of*  
 11 *the Caribbean: The Curse of the Black Pearl*, at 00:44:28). However, in both,  
 12 Nefarious/Barbossa also manage to take Jane/Elizabeth captive, imprisoning  
 13 them on their ships (*Pirates of the Caribbean: The Curse of the Black Pearl*, at  
 14 38:00).

15 96. Next, Davey Jones/Jack Sparrow and their crews make their way to  
 16 an ominous island (*Pirates of the Caribbean: The Curse of the Black Pearl*,  
 17 1:05:08). In the Screenplay this occurs on "Calavera Island,"; in the Film, it  
 18 occurs on "Isla de Muerta," (*Pirates of the Caribbean: The Curse of the Black*  
 19 *Pearl*, 01:05:08).<sup>1</sup> Both islands hold the promise of the final treasure, but leave  
 20 the characters disappointed by the actual outcome (*Pirates of the Caribbean:*  
 21 *The Curse of the Black Pearl*, at 01:12:33).

22 97. After leaving the island, Davey Jones/Jack Sparrow endure a series  
 23 of conflicts with Nefarious/Barbossa that culminate in a fierce ship battle as the  
 24 characters reach the cavern containing the final treasure. (*Pirates of the*  
 25

---

26 <sup>1</sup> Translating the names of both islands from Spanish reveals that even the  
 27 names are similar. "Calavera Island" means "Skull Island," while "Isla de Muerta"  
 28 translates to "Island of the Dead." Both islands also have physical attributes that  
 include half-submerged skulls (*Pirates of the Caribbean: The Curse of the Black*  
*Pearl*, 01:05:08).

1 *Caribbean: The Curse of the Black Pearl*, at 01:50:45) During both battles, the  
 2 characters escape the ships by rowboat to enter the treasure cavern (*Pirates of*  
 3 *the Caribbean: The Curse of the Black Pearl*, at 01:50:38).

4 98. Once the characters enter the cavern in the climax of both the  
 5 Screenplay and the Film, Davey Jones/Jack Sparrow fight Nefarious/Barbossa  
 6 and their supernatural crews over the sought after treasure (*Pirates of the*  
 7 *Caribbean: The Curse of the Black Pearl*, 01:52:25-02:00:00). Both battles show  
 8 swords sticking through the rib cages of skeletons, (*Pirates of the Caribbean:*  
 9 *The Curse of the Black Pearl*, at 01:55:48) and during this swordfight,  
 10 Barbossa/Nefarious say to their adversary that they “can’t die”/”can’t [be] beat”  
 11 (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 1:55:16-18).  
 12 However, Davey Jones/Jack Sparrow find a way to defeat their adversaries and  
 13 flee the cavern by rowboat with Jane/Elizabeth (*Pirates of the Caribbean: The*  
 14 *Curse of the Black Pearl*, at 02:04:20). Despite both caves being filled with gold  
 15 and jewels, Davey Jones/Jack Sparrow only end up being able to take a small  
 16 fraction of the treasure with them while escaping the cavern (*Pirates of the*  
 17 *Caribbean: The Curse of the Black Pearl*, at 02:04:20). As they emerge from the  
 18 treasure caverns Davey Jones/Jack Sparrow are finally rescued, not by their  
 19 crews, but by privateer ships (*Pirates of the Caribbean: The Curse of the Black*  
 20 *Pearl*, at 02:04:37). Both works conclude in the bay of the port town, with  
 21 Davey Jones/Jack Sparrow aboard their respective ships, and returned to their  
 22 former positions as prestigious captains (*Pirates of the Caribbean: The Curse of*  
 23 *the Black Pearl*, at 2:12:00).

24 99. Neither the Film nor Screenplay is a love story; they are both action  
 25 films with supernatural elements. However, both make reference to the  
 26 importance of romantic relationships – in the Film, Jack Sparrow says that “not  
 27 all treasure is silver and gold” in reference to Will Turner’s relationship with  
 28 Elizabeth Swan, and in the Screenplay Davey Jones pronounces to his love



1 interest, Jane, that what “we have is far greater than any treasure!” (*Pirates of*  
2 *the Caribbean: The Curse of the Black Pearl*, at 01:09:55).

### 3 **Dialogue**

4 100. The Screenplay and the Film have several instances of similarity of  
5 dialogue. In the Film, the Black Pearl is described as “A ship with black sails,  
6 that’s crewed by the damned” (*Pirates of the Caribbean: The Curse of the Black*  
7 *Pearl*, 00:12:54-55) and in the Screenplay “His ghost sails the seas in his ghost  
8 ship”. While a black ship with black sails may be common in pirate lore or pirate  
9 stories, the use of the description and visual imagery of this ship is strikingly  
10 similar; moreover, as discussed *infra*, purported “scenes a faire” are **included** in  
11 the analysis. Also, the Black Pearl is “captained by a man so evil that hell itself  
12 spat him back out.” (*Pirates of the Caribbean: The Curse of the Black Pearl*, at  
13 00:12:54-00:13:00). The Screenplay similarly has the dialogue “Legend says  
14 that a big sea monster ate him and spat him out”.<sup>2</sup>

15 101. A quote from the Screenplay states of Nefarious that “[f]or ten  
16 years the Phantom has stopped at nothing... and he’ll CRUSH anyone...who gets  
17 in his way”. In *The Curse of the Black Pearl*, the characters state of Barbossa  
18 and his ship that “She’s been praying on ships and settlements for near ten years.  
19 [And] never leaves survivors.” (*Pirates of the Caribbean: The Curse of the*  
20 *Black Pearl*, at 00:29:52).

21 102. In the Film, Elizabeth tells Captain Barbossa, “I hardly believe in  
22 ghost stories anymore.” (*Pirates of the Caribbean: The Curse of the Black Pearl*,  
23 at 00:56:44). Similarly, the Screenplay has the Rascal Scoundrels discussing that  
24 the tale of “undead Jack” is an old seaman’s tale and not real. Further, the  
25 existence of cursed pirates is touched on throughout the Film. (*Pirates of the*  
26 *Caribbean: The Curse of the Black Pearl*, at 00:00:59; 00:37:14; 00:56:30;

---

27  
28 <sup>2</sup> A sea monster is also prominent in Sequel #1.



00:57:31). Later in the Screenplay two pirates also say “perhaps he be a Ghost! Maybe he thinks he be Phantom Jack” referring to “undead Jack” Nefarious. Nefarious and Barbossa’s dialogue are mirrored in the works as well. While being attacked both pirate villains state that they “can’t die.” (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 01:31:32).

103. In the Screenplay, Davey Jones tries to convince a woman in the tavern that he was once a dashing, swashbuckling pirate. In the Film, Jack Sparrow constantly tries to convince everyone of his lore as a great pirate (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:18:20).

Furthermore, both Davey Jones and Jack Sparrow are slapped by women in comedic scenes. In the Screenplay the woman states, “You had that coming, Davey Jones!”. In the Film, Jack Sparrow says, “Not sure I deserved that,” followed by “I may have deserved that.” (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:51:20-30). While the latter may be funnier than the former, they convey the same message.

### **Plot**

104. In addition to the similarities in plots/sequence of events between the Screenplay and the Film identified herein above, both also contain scenes that are so unique they cannot be considered *scènes à faire*. See, “Sequence of Events” *supra*; “Theme” *infra*.

105. For example, when Jane/Elizabeth are first taken hostage by Nefarious/Barbossa, they are both brought aboard ship where they are taken past crew members before meeting with Nefarious/Barbossa directly. (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:38:15). In the Screenplay, Jane is heckled by crew members while being escorted across the deck.

106. After being insulted, one crew member tries to attack Jane before Nefarious intervenes. Nefarious, in response, reprimands the crew member as a warning to the rest of the crew not to harm Jane. *Id.* In the Film, Elizabeth is

1 similarly heckled by crew members on the deck of the ship before meeting face  
 2 to face with Barbossa (*Pirates of the Caribbean: The Curse of the Black Pearl*,  
 3 at 00:38:09). As she attempts to respond, she is slapped by one of the crew  
 4 members (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:38:13).  
 5 Just as Elizabeth is struck, Barbossa appears, grabs the crew member's arm and  
 6 threateningly warns that no one is to lay a hand on her. (*Pirates of the*  
 7 *Caribbean: The Curse of the Black Pearl*, at 00:38:18).

8       107. In another uniquely similar scene, male pirates in the Screenplay  
 9 and Film poorly disguise themselves as women to deceive enemies during battle  
 10 (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 01:50:18). In the  
 11 Screenplay, Davey Jones dresses as a “wench” before revealing himself and  
 12 attacking the invading pirates. The scene is comedic, with one of the pirates  
 13 attempting to kiss Davey Jones before he says “Love hurts” and strikes the  
 14 pirate. *Id.* In the Film, two members of Barbossa's crew dress up as young  
 15 maidens to create a distraction and mount a surprise attack (*Pirates of the*  
 16 *Caribbean: The Curse of the Black Pearl*, at 01:50:18). The otherwise rugged  
 17 pirates fan each other, even complimenting each other's outfits before viciously  
 18 engaging in sword fights with enemies (*Pirates of the Caribbean: The Curse of*  
 19 *the Black Pearl*, at 01:58:46).

20       108. In yet another remarkable similarity, Davey Jones/Jack Sparrow  
 21 both take control of their rivals' ghost ships in the Screenplay and Film in almost  
 22 the exact same manner. In the Screenplay, while Davey Jones is busy fighting  
 23 Nefarious and his supernatural pirates, Davey Jones' crew is able to climb  
 24 aboard the unoccupied Phantom Ship. The crew takes control of the ship without  
 25 Davy Jones, bringing him aboard only at the last minute during a hot pursuit. In  
 26 the Film, Jack Sparrow's crew also takes the Black Pearl while Barbossa and his  
 27 crew are fighting Jack and other enemies (*Pirates of the Caribbean: The Curse*  
 28 *of the Black Pearl*, at 01:58:46). After regaining control of the empty Black

Pearl without Jack, they likewise welcome him aboard at the conclusion of a hot pursuit. (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 02:09:53).

109. The three comparisons are a non-exhaustive list of scenes from the Screenplay and Film with stark parallels. They are far from similarities of generic pirate elements; they evidence substantial copying.

#### **Theme**

110. Supernatural elements and undead pirates are one of the main recurring themes of the Screenplay, as it is in the Films. Captain Barbossa says to Elizabeth “You better start believing in ghost stories Ms. Turner, you’re in one.” (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 1:00:25). The “hook” of the Screenplay and the Film that made it new, different, and exciting was the supernatural theme: supernatural undead/ghost pirates (ER 249; 259; 265; 267-68; 277) (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:37:09; 00:58:54; 01:00:45).

111. Similarly, the theme of the Screenplay centers on a pirate ghost story. In the Screenplay, Davey Jones discusses ghost stories with the Rascal Scoundrels telling them that “There is no Phantom Jack. It’s an old seaman’s tale” and that Jack’s “ghost ship” is not real. But in fact they are. In the Screenplay, Stink says that “a big sea monster ate [Jack Nefarious] and then spit him out”. In the Film, Captain Barbossa’s ship is described as “A black ship with black sails, crewed by the damned” and “captained by a man so evil that hell itself spat him back out.” (*Pirates of the Caribbean: The Curse of the Black Pearl*, at 00:12:55; 00:13:00).

112. Indeed, while Captain Barbossa and his crew are not trying to find lost treasure, but rather trying to return it, as argued by Appellees, it is a distinction without a difference: Barbossa and his crew are *seeking* treasure (including the gold medallion worn by Elizabeth), which will break the curse

1 that made them undead. This search for treasure advances the main theme and  
2 plot of the Screenplay and Film.

3 113. Another common theme in both the Screenplay and Film are Davey  
4 Jones/Jack Sparrow's redemption. In both works, Davey Jones/Jack Sparrow are  
5 first depicted as shells of their former selves (*Pirates of the Caribbean: The*  
6 *Curse of the Black Pearl*, at 00:18:17-20. However, throughout both works they  
7 demonstrate their true character, defeating the rivals that have haunted them and  
8 returning to their former glory (*Pirates of the Caribbean: The Curse of the Black*  
9 *Pearl*, at 02:12:00).

### 10 **Mood**

11 114. There is slapstick humor in both films. In the Film, the monkey  
12 provides slapstick humor throughout, as do the characters of Pintel and Ragetti  
13 (members of Barbossa's crew), much like the Rascal Scoundrels do in the  
14 Screenplay.

15 115. In the Screenplay, the emotion that is invoked when the true nature  
16 of the supernatural pirates is revealed is substantially similar to the emotion  
17 invoked during the same events in the Film: an eerie mood (*Pirates of the*  
18 *Caribbean: The Curse of the Black Pearl*, at 00:37:07).

19 116. The presence of a black ship, black sails, fog indicating the arrival  
20 of the ship, as well as other "common" pirate symbols are used in substantially  
21 the same selection and arrangement in both the Screenplay and the Film, to  
22 create a similar sinister and foreboding mood (*Pirates of the Caribbean: The*  
23 *Curse of the Black Pearl*, at 00:04:45; 00:16:52; 00:29:08; 01:21:43).

### 24 **Setting**

25 117. The Screenplay and the Film share specific settings of specific  
26 scenes. The ghost ship (*Pirates of the Caribbean: The Curse of the Black Pearl*,  
27 at 00:12:55); the port town (*Pirates of the Caribbean: The Curse of the Black*  
28

1 *Pearl*, at 00:29:45); and the cove where the treasure is hidden (*Pirates of the*  
 2 *Caribbean: The Curse of the Black Pearl*, at 01:08:08).

3 118. The foregoing is by no means an exhaustive recitation of  
 4 similarities, and are anything but random; they are tied together by theme,  
 5 sequence of events, and major characters.

6 **FIRST CLAIM FOR RELIEF**  
 7 **(COPYRIGHT INFRINGEMENT REGARDING THE PIRATES OF THE**  
 8 **CARIBBEAN FILM FRANCHISE)**  
 9 **(Against All Defendants)**

10 119. Plaintiff repeats, alleges and incorporates by reference the  
 paragraphs hereinabove as though fully set forth herein.

11 120. In or about June of 2003, Defendants the Film to the public.

12 121. Interestingly, Taylor was not credited on the first film although he  
 13 has stated in interviews and books published later that he created the story with  
 14 Harmon and Haines. It was not until the second film, "*Pirates of the*  
 15 *Caribbean: Dead Man's Chest*", released in 2006, that Taylor was credited as a  
 16 production executive. Indeed, Taylor, the suspected architect of the scheme to  
 17 steal and copy from Plaintiffs' work, was credited as producer on each of the  
 18 films except the first one.

19 122. As alleged hereinabove, the named Defendants have infringed upon  
 20 Plaintiff's copyright by copying wholly original elements from Plaintiff's  
 21 Screenplay, without any permission, in the Film and the subsequent derivative  
 22 works released by Defendants.

23 123. Upon information and belief, the named Defendants intentionally  
 24 broadcast, distributed, published, sold, conveyed, and otherwise exploited the  
 25 Screenplay without authorization, in violation of Plaintiffs' rights.

26 124. Upon information and belief, the named Defendants have  
 27 intentionally violated the Federal Copyright Act, Title 17 U.S.C. § 101 *et seq.*,  
 28 entitling Plaintiff to all damages and remedies provided by the Act.

125. Upon information and belief, the named Defendants continue to infringe upon Plaintiff's copyrights, causing Plaintiff irreparable injury and damage, including through cinematic sequels (such as *Dead Man's Chest*, *At World's End*, *On Stranger Tides*, *Dead Men Tell No Tales*, and the recently announced sixth installment) and other related media. Said infringement entitles Plaintiff to actual and statutory damages, injunctive and other relief provided by the Copyright Act.

WHEREFORE Plaintiff prays,

**ON ALL CAUSES OF ACTION:**

1. For a preliminary and permanent injunction enjoining Defendants from infringing the copyright of Plaintiffs in any manner;

2. For actual damages and profits according to proof;

3. That Defendants be required to pay to Plaintiffs such damages as Plaintiff has sustained in consequence of Defendants' infringements of Plaintiffs' copyright and to account for:

a. All gains, profits and advantages derived by Defendants by their infringement of Plaintiffs' copyright or such damages as the court shall deem proper within the provisions of the copyright statute, but no less than \$100,000,000;

b. That Defendants deliver up to be impounded during the pendency of this action all copies of said infringing work as in its possession or under its control and deliver up for destruction all infringing copies or other materials used to make infringing copies;

4. For statutory damages, costs, and attorney fees with respect to *Pirates of the Caribbean: The Curse of the Black Pearl* and any other derivative works;

5. For an accounting;

6. For cost of suits and interest; and,





1  
2  
3 **DEMAND FOR JURY TRIAL**

4 Plaintiffs hereby demand a jury trial on all issues so triable.

5  
6 Dated: November 30, 2020

7  
8 LOWE & ASSOCIATES

9 */s/ Steven Lowe*

10  
11 

---

STEVEN T. LOWE, ESQ.

ALEKSANDRA HILVERT, ESQ.

Attorney for

12 PLAINTIFFS ARTHUR LEE ALFRED, II,  
13 EZEQUIEL MARTINEZ JR.